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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,420	07/10/2001	Stephen C. Hilla	112025-0476	7670
24267	7590	12/15/2004	EXAMINER	
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			VO, LILIAN	
			ART UNIT	PAPER NUMBER
			2127	
DATE MAILED: 12/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,420

Applicant(s)

HILLA ET AL.

Examiner

Lilian Vo

Art Unit

2127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11302004</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claims 1 – 17 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 - 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The following terms lack of antecedent basis:

- a. "the processor resource", claims 1, 10 and 14.
- b. "the memory blocks", claims 1, 3, 6, 8, 10, 12, 14 and 16.
- c. "the sessions", claims 1, 6, 10 and 14.
- d. "the session table", claims 13 and 17.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 3 and 5 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. (US Pat. Application Publication 2002/0073211, hereinafter Lin).

7. Regarding **claim 1**, Lin discloses a load balancing system for distributing tasks to processor resources of a processor pool, the system comprising:

a memory organized into at least one region of blocks, each block configured to store a session (fig. 5);

an interface for coupling the memory to the processor resource, whereby the processor resource accesses the memory blocks to update information associated with the sessions (figs. 1 and 3, page 4, paragraph 38);

an access monitor coupled to the interface, wherein the access monitor recognizes and tracks memory cycles associated with the memory blocks during a specified period of time and collects statistics associated with the sessions (fig. 3 and page 5, paragraphs 46 and 67); and

a central resource coupled to the access monitor, and assign tasks to the processor resources (figs. 1 - 3 and page 4, paragraphs 37 and 38, page 6, paragraph 53).

Lin however did not clearly disclose the step of the load balancer assigns tasks to webserver according to the session information receiving from the state servers. Instead, Lin discloses that the load balancer distributes tasks to the webserver by using the traffic flow rate measurement for each individual webserver connected to the load balancer (page 4, paragraphs 37 – 38, page 6, paragraph 53), in which the state server then creates a monitoring thread to the webserver and monitors the session between the webserver and the browser and the state server stores the session which is established when an application server is connected (page 6,

paragraph 56). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made to recognize that the load balancer assigns tasks to web servers based on the information, which indirectly obtain from the state servers.

8. Regarding **claim 2**, Lin discloses the logic for recognizing a new session and designating a memory block for that session (fig. 5 and page 5, paragraphs 44 and 47).

9. Regarding **claim 3**, Lin discloses the access monitor comprises:
memory address logic that recognizes address fields defining the memory blocks (fig. 5);
memory control logic that recognizes memory cycles being executed on the memory blocks (page 5, paragraph 47); and
a session table with activity information entries associated with each session (page 5, paragraph 44).

10. Regarding **claim 5**, Lin discloses that when the specified period of time elapses, the session table is cleared (fig. 9, page 8, paragraphs 66 - 67).

11. **Claims 6 – 17** are rejected on the same ground as stated in claims 1 – 3 and 5 above.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al. (US Pat. Application Publication 2002/0073211, hereinafter Lin) as applied to claim 1 above, and in view of Bass et al. (US 6,449,576, hereinafter Bass).

13. Regarding **claim 4**, Lin did not clearly disclose the access monitor is embodied as an application specific integrated circuit. Nevertheless, Bass discloses a monitor infrastructure for systematically providing local and remote access to signals within an integrated circuit device (col. 8, lines 50 – 52). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to implement Lin's access monitor as an application specific integrated circuit similar to Bass's system so that it can be useful by providing a systematic and comprehensive IC assessment device which also includes network traffic monitoring capabilities (Bass: col. 1, lines 50 – 52)

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 2127

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo
Examiner
Art Unit 2127

lv
November 30, 2004


MENG-AI T. AU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100